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SENATE BILL 162

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO COUNTIES; ENACTING THE COUNTY DETENTION FACILITY REFORM ACT; PROVIDING REIMBURSEMENT TO COUNTIES; CREATING THE COUNTY DETENTION FACILITY REFORM FUND; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "County Detention Facility Reform Act".

Section 2. DEFINITIONS.--As used in the County Detention Facility Reform Act:

A. "ancillary services" means:

- (1) medical services, treatment or care;**
- (2) prescription drug services;**
- (3) dental services;**
- (4) mental health services, treatment or care;**

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- 1 (5) vision treatment or care;
- 2 (6) ambulatory services; and
- 3 (7) transportation services;

4 B. "county detention facility" means a facility
5 owned, operated or under contract of operation by a board of
6 county commissioners that is used for the incarceration of
7 prisoners charged with or convicted of a violation of local,
8 state, tribal, international or federal law;

9 C. "department" means the corrections department;

10 D. "incarceration" means the housing, care and
11 transportation of state prisoners; and

12 E. "state prisoner" means an individual charged
13 with or convicted of a violation of state law, except those
14 individuals convicted of a misdemeanor as provided in Section
15 31-19-1 NMSA 1978.

16 Section 3. REIMBURSEMENT. --The department shall reimburse
17 a county for the incarceration of a state prisoner who:

18 A. has violated his parole and is charged with a
19 parole violation;

20 B. while on parole is charged with a violation of
21 local, state, tribal, international or federal law;

22 C. is awaiting transportation and commitment to the
23 department following the pronouncement of a judgment, a
24 sentence or an order of confinement;

25 D. is charged with a violation of his probation by

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1 the department or by a district court;

2 E. is sentenced, ordered or removed by the district
3 court to incarceration in a county detention facility; or

4 F. is incarcerated on the basis of an arrest and
5 hold order or a warrant issued by the department.

6 Section 4. RATE OF REIMBURSEMENT.--The department shall
7 reimburse a county eight times the federal hourly minimum wage
8 per day for each prisoner incarcerated in that county's
9 detention facility. The department shall also reimburse the
10 county the cost of providing ancillary services to each state
11 prisoner incarcerated in the county's detention facility.

12 Section 5. COUNTY DETENTION FACILITY REFORM FUND
13 CREATED. --

14 A. The "county detention facility reform fund" is
15 created in the state treasury. The fund shall consist of
16 appropriations, gifts, grants, donations, federal funds
17 available for the purposes of the fund and earnings from the
18 investment of the fund. The department shall administer the
19 fund, and the money in the fund is appropriated to the
20 department to reimburse boards of county commissioners as
21 provided in the County Detention Facility Reform Act. Money
22 from the fund shall not be used by the department for
23 administration.

24 B. Disbursements of the county detention facility
25 reform fund shall be made by warrant of the department of

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underscored material = new
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1 finance and administration pursuant to vouchers signed by the
2 county manager of the county to be reimbursed or his authorized
3 representative and approved by the department. Any unexpended
4 or unencumbered balance shall not revert to any other fund but
5 shall remain to the credit of the fund.

6 Section 6. APPROPRIATION. --Sixty-three million six
7 hundred thousand dollars (\$63,600,000) is appropriated from the
8 general fund to the county detention facility reform fund for
9 expenditure in fiscal year 2005 and subsequent fiscal years to
10 reimburse counties pursuant to the County Detention Facility
11 Reform Act. Any unexpended or unencumbered balance remaining
12 at the end of a fiscal year shall not revert to the general
13 fund.

14 Section 7. REPEAL. --Section 33-3-3 NMSA 1978 (being Laws
15 1865-1866, Chapter 19, Section 2, as amended) is repealed.

16 Section 8. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 2004.